

**FILED DISTRICT COURT**  
Third Judicial District

**MAR -3 2006**

SALT LAKE COUNTY

Deputy Clerk

E. NEAL GUNNARSON, Bar No. 1273  
Assistant Attorney General  
MARK L. SHURTLEFF, Bar No. 4666  
Utah Attorney General  
5272 South College Drive, #200  
Murray, Utah 84123  
Telephone: (801) 281-1221  
Facsimile: (801) 281-1224  
**Attorneys for Plaintiff**

IN THE THIRD JUDICIAL DISTRICT COURT IN AND FOR  
SALT LAKE COUNTY, STATE OF UTAH

THE STATE OF UTAH.

Plaintiff,

Vs.

KEVIN LAWRENCE WRIGHT

MICHAEL STEPHEN HURST

Defendants

**AFFIDAVIT OF  
PROBABLE CAUSE**

Case No.

Case No.

Judge

STATE OF UTAH )

:ss

COUNTY OF SALT LAKE )

I, DAVE HERMANSEN, being first duly sworn upon oath, depose and state the  
following:



1. I am an Investigator for the State of Utah, Department of Commerce, Division of Securities. I have been employed in this capacity for the past fifteen years. My investigative work during these years has consisted of brokerage firm audits and investigations involving securities fraud. I have also been employed in the private sector of the securities industry for an additional eight years. I am a graduate of Weber State University.

2. This case was opened by the Utah Division of Securities ("Division") on January 2, 2004 to investigate a complaint filed by Brad and Jane Nielsen (Victims) against Michael Stephen Hurst (Defendant) and Kevin Lawrence Wright (Defendant).

### **INVESTIGATION BACKGROUND**

3. During the course of this investigation, I have interviewed and/or received information from the following individuals: Brad & Jane Nielsen ("Nielsens"), Michael Hurst ("Hurst"), Kevin Wright ("Wright"), R. Brooke Williamsen (Advantage Title Company), Marilyn L. Allred, Camille J. Hansen, Brent Woodson, Shaun Heseltine and others.

4. I have identified and examined the bank records in the names of Reminders Inc. (Wells Fargo Acct. #1270004037) and BDG (First Utah Bank Acct. #50801372).

5. Based upon records on file with the State of Utah, Department of Commerce (Division of Corporations) and bank records obtained from Wells Fargo Bank, Reminders Inc. is owned and controlled by Hurst.

6. Based upon records on file with the State of Utah, Department of Commerce (Division of Corporations) and bank records obtained from First Utah Bank, Mr. Shaun Hasseltine (a Utah licensed Real Estate Agent) is the owner of BDG Group, located in Salt Lake

County.

### **CASE HISTORY**

7. In or about May 2002, in Salt Lake County, Nielsens met with Wright to discuss purchasing a home as an investment. Wright told the Nielsens that he was a mortgage broker and he knew of a home for sale located in Bluffdale, Utah that they could buy for \$590,000, although it was actually worth \$810,000. Wright stated that if they purchased the home, they could investment the excess equity with him and his partner (Hurst) in a high yield account entitled Capital Enhancement Club ("Capital"). To further entice the Nielsens into investing the excess funds, Wright stated that he was making a 30% return on his own Capital account.

8. In or about August 2002, in Salt Lake County, Nielsens met with Wright again to discuss investing in Capital as previously discussed in May. Wright showed Nielsens documentation regarding the return rates for Capital which ranged from 8% to 30% depending upon risk tolerance.

9. In or about October 2002, in Salt Lake County, Nielsens met with Wright and Hurst to look at their investment packages which were represented to yield 8, 10 and 30 percent. At this time, Nielsens stated that they would like to buy the home (as outlined in paragraph 7, above) located in Salt Lake County (3955 West 13800 South, Bluffdale, Utah) and invest the excess equity in a conservative Capital fund yielding 8% to 10%. Hurst and Wright told the Nielsens that they would receive \$75,000 of their equity to put into a personal savings account to rely upon in the event they could not make the mortgage payment. To reassure the Nielsens, Wright stated that he and Hurst owned 10 other homes and they could help with the mortgage

payments if there was a problem. Nielsens then agreed to purchase the home for \$590,000, but would obtain a loan for the full value of the home (\$810,000) and invest the excess equity in a conservative Capital fund which was represented to yield 8% interest.

10. On or about January 22, 2003, in Salt Lake County, Hans and Camile Hansen ("Hansens") met with Advantage Title and signed the papers to sell their home to the Nielsens. Based upon the HUD Uniform Settlement Statement the sale price was listed as \$810,000, which was more than the price they were asking for the home. In addition, the Statement showed disbursements (unknown to the Hansens) that were to be issued to BDG (\$15,000) and Reminders Inc. (\$195,000). During my interview with Hansens, they stated that Wright told them the sales price (\$810,000) on the HUD document was higher than what they were selling the home for because the Nielsens were taking some equity out of the home to invest.

11. On or about January 22, 2003, in Salt Lake County, Nielsens met with Advantage Title and signed the documents to purchase the Hansen's home. During my interview with the Nielsens, they told me that they were never shown page one of the HUD Uniform Settlement Statement, which falsely stated they had paid \$61,348 as a cash down payment to purchase the home. Furthermore, they were never aware of the disbursements being paid to BDG and Reminders Inc. Nielsens also stated that if they had seen the first page of the HUD document and the unauthorized disbursements issued to entities other than Capital, they would not have closed on the home.

12. On January 2, 2004 (nearly a year later), Nielsens filed a complaint with the Utah Division of Securities. In my interview, Nielsens stated that they had no idea what

happened to the excess equity in their investment home. They further stated they did not receive the \$75,000 cash as promised for their savings account. My review of the loan documents revealed the unknown disbursements to BDG and Reminders Inc.

13. During the course of my investigation, I obtained the bank records for BDG (First Utah Bank). These records indicate the account was entitled Builders Development Group P.C., and the owner of the account was Mr. Shaun Heseltine. Further review of these records indicated that on Jan 29, 2003 a deposit of \$15,000 was received into this account from Advantage Title.

14. As part of my investigation, I also obtained bank records for Reminders Inc. (Wells Fargo Bank). These records indicate it is a small business account owned and controlled by Michael Hurst and Audrey Hurst (spouse). Review of the monthly bank statements revealed a wire transfer in the amount of \$128,410 was deposited into the account on February 5, 2003. In an effort to confirm the funds were obtained from Nielsens account, I contacted Mr. R. Brooke Williamsen the manager at Advantage Title Company. Mr. Williamsen provided a wire transfer document which confirmed the \$128,410 was disbursed from Nielsen's escrow account. In addition he provided a copy of the \$15,000 check issued to BDG.

15. On February 10, 2004, I met with defendants Wright and Hurst at the offices of the Utah Division of Securities. During this interview, Wright acknowledged that the \$15,000 issued from Advantage Title was paid to BDG Group (Shaun Heseltine) for a "finders fee" for telling him the home was for sale. In my interview with Hurst, he stated that he was the owner of Reminders Inc. When questioned about the funds diverted to Reminders Inc., Hurst

stated that \$50,000 was for their (his and Wright's) "finders fee" charged to Nielsen's for telling them about the home. The remaining \$75,000 was for an investment in uncut diamonds with a Mr. Brent Woodson, who in turn, invested with a man named Abdul (?) in Saudia Arabia. Hurst stated that the diamond investment has not paid off.

16. Additional review of the Reminders Inc Bank account revealed that on February 6, 2003 Hurst wire transferred \$125,000 to Vered Zahov Investments ("Vered"). My investigation has revealed that Mr. Brent Woodson is the owner of this company. I contacted Mr. Woodson and he confirmed that Hurst had given him the funds to invest in rough cut diamonds. However, he was unaware of the Nielsens and their investments. He was told by Hurst that the diamond purchase was for him. Woodson also stated that this investment had not worked out.

17. During this investigation I interviewed Mr. Shaun Heseltine regarding the \$15,000 he received from Advantage Title. Mr. Haseltine told me that he knew nothing about the Nielsens or a "finders fee" for the home they purchased. He further stated that the \$15,000 he received was for a past due debt owed to him by Wright.

18. As part of my investigation I researched the State of Utah court records regarding Wright and Hurst. My researched revealed that Wright was the defendant in three separate civil actions and final judgments were entered against him. The judgments are as follows:

|             |                          |           |
|-------------|--------------------------|-----------|
| a. 10-18-02 | Holladay Bank & Trust    | \$310,000 |
| b. 03-07-01 | IHC                      | \$ 9,707  |
| c. 12-11-01 | Stonecutter Construction | \$ 7,518  |

In addition to the court records, I obtained documents which revealed that Wright is delinquent on his income taxes owed to the State of Utah for the years 1995 (\$8,614), 1996 (\$11,270), 1997 (\$6,781), 1999 (\$617), 2000 (\$51,795) and 2001 (\$29,688).

As part of my investigation I contacted Nielsens to find out if the civil judgments and delinquent income taxes owed by Wright were ever disclosed to them prior to investing with Wright and Hurst. Nielsens told me that none of these actions were ever disclosed to them.

### **INVESTIGATION SUMMARY**

19. My investigation has revealed that Wright and Hurst willfully misrepresented the investment in Capital to Nielsens that was to yield 8% interest. Instead of investing Nielsen's funds in Capital and giving them \$75,000 for their savings account, the defendants paid a personal debt, transferred funds to a personal account, and invested the funds in an unauthorized purchase of diamonds. In addition, the two defendants willfully omitted to inform Nielsens of certain material information upon which they could make an informed investment decision. Specifically, Wright failed to inform them that he had several outstanding civil judgments against him and owed past due income taxes to the state of Utah. In addition, the two defendants willfully failed to provided Nielsens with an Offering Circular (Prospectus) for Capital, and thus, omitted to inform them of some or all of the following;

- a. Names, addresses and experience of the Fund managers;
- b. Use of Proceeds;
- c. Risk Factors;
- d. Compensation and Fees;
- e. Financial Statement;
- f. Market for the Securities.

**COUNT 1**  
**SECURITIES FRAUD (a second degree felony)**  
**(Defendants Wright and Hurst)**

20. In or about August 2002, in Salt Lake County, state of Utah, Wright solicited Nielsens to obtain funds from the excess equity in an undervalued home they were considering purchasing for the purpose of investing in Capital, a high yield account paying 8% interest. To entice Nielsens to invest, Wright showed them documents for his own account displaying the return he was receiving from Capital. He also stated the return on the investment would make the Nielsen's monthly mortgage payments if they purchased the home.

21. In or about October 2002, in Salt Lake County, state of Utah, Wright and Hurst solicited Nielsens a second time to purchase the home and invest the excess equity into Capital. To entice them into the investment, the two defendants told Nielsens they would receive \$75,000 of their own funds from the escrow account to put into a personal savings account to use for mortgage payments, if any problems should occur. Furthermore, the defendants stated they owned ten homes and could sell one of them to make the mortgage payments if needed. Based upon these assurances, Nielsens agreed to purchase the home and invest some of the excess equity into Capital.

22. In connection with the offer and sale of this security, Wright and Hurst failed to provide Nielsens with an Offering Circular (Prospectus) disclosing the items listed in paragraph 19, above. In addition, Wright failed to disclose to Nielsens that he was a defendant in several civil actions and was delinquent in tax payments to the state of Utah, as outlined in paragraph 18, above.



**COUNT 2**  
**THEFT (a second degree felony)**  
**(Defendant: Wright)**

22. Instead of giving Nielsens their \$75,000 for their saving account and investing the balance into Capital as outlined in Count 1, above, on or about January 28, 2003, in Salt Lake County, state of Utah, Wright instructed Advantage Title Company to issue a check in the amount of \$15,000 to BDG from Nielsen's escrow account.

23. Based upon an interview with Mr. Shaun Heseltine, the owner of BDG, the \$15,000 payment was for a past due debt owed to him by Wright, and had nothing to do with Nielsen's investments or the home they purchased.

**COUNT 3**  
**THEFT (a second degree felony)**  
**(Defendant: Hurst)**

25. Instead of giving the Nielsens the \$75,000 for their saving account and investing the balance into Capital as outlined in Count 1, above, on February 5, 2003, in Davis County, state of Utah, Hurst received a \$128,410 wire transfer into Reminders Inc (his personal business account) from Advantage Title Company. Based upon documents obtained from Advantage Title these funds were from Nielsen's escrow account.

26. Based upon Reminders Inc's bank statement, on February 6, 2003, in Davis County, state of Utah, Hurst wired \$125,000 from Reminders Inc. to Vered Zahov Investments, LLC. Hurst stated to me in an interview that this was Nielsen's funds and Vered used the money to invest in uncut diamonds. According to Nielsen, they never discussed an investment in diamonds, and furthermore, did not give authorization to so.

SUMMARY

There is probable cause to believe that the defendant **KEVIN LAWRENCE WRIGHT**  
committed the offense (s) of:

**SECURITIES FRAUD**  
a second degree felony, 1 count

**THEFT**  
a second degree felony, 1 count

There is probable cause to believe that the defendant **MICHAEL STEPHEN HURST**  
committed the offense (s) of:

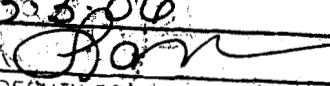
**SECURITIES FRAUD**  
a second degree felony, 1 count

**THEFT**  
a second degree felony, 1 count

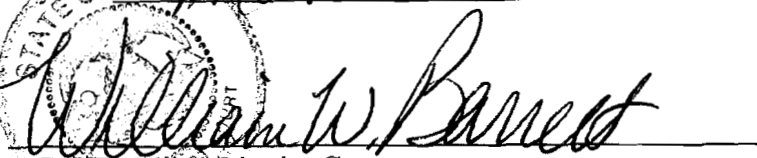
DATED this 3 day of March, 2006

  
DAVE HERMANSEN, AFFIANT

I CERTIFY THAT THIS IS A TRUE COPY OF  
AN ORIGINAL DOCUMENT ON FILE IN THE  
THIRD DISTRICT COURT, SALT LAKE  
COUNTY, STATE OF UTAH

DATE: 3-3-06  
  
DEPUTY COURT CLERK

SUBSCRIBED AND SWORN to before me on this 3  
day of March, 2006.

  
JUDGE Third District Court